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Attorneys for Petitioners
Jian Wang and Yung Fen

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-X

In Re GMAC Mortgage, LLC

Chapter 11

Debtor.

Case No.: 12-12020 (MG)

JIAN WANG and YUNG FEN
1225 RESERVOIR ROAD
CHESHIRE, CONNECTICUT 06410

Assigned to: Hon. Martin Glenn

Plaintiffs,

Returnable:
11:00 a.m., October 17, 2017

vs.

GMAC MORTGAGE, LLC,

Defendant.

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**AFFIDAVIT OF MARK D. SHIFTON, ESQ. IN SUPPORT OF
MOTION FOR ORDER FOR RELIEF FROM AUTOMATIC BANKRUPTCY STAY**

Mark D. Shifton, being duly sworn, hereby deposes and says as follows:

1. I am a Partner with Seiger Gfeller Laurie LLP, counsel for Petitioners Jian Wang and Yun Feng. I am familiar with the proceedings in this case, and I make this Affidavit based on my personal knowledge of the facts set forth herein and in support of the instant Motion for an Order for relief from the automatic bankruptcy stay under 11 U.S. Code § 362.

2. Debtor GMAC Mortgage, LLC's ("GMAC") Notice of Petition under Chapter 11 of the Bankruptcy Code was filed on May 14, 2012. A true and complete copy of Debtor's Notice of Petition is attached hereto as **Exhibit A**. Pursuant to 11 U.S.C. § 362, the filing of GMAC's Notice of Petition triggered an automatic bankruptcy stay.

3. Petitioners Jian Wang and Yun Feng ("Owners") are the owners of property known as 1225 Reservoir Road, Cheshire, Connecticut 06410 (the "Property").

4. The Property is subject to a mortgage in the original principal amount of \$520,000.00 from Robert A. Winner and Gail M. Winner, the prior owners of the Property ("the Prior Owners"), to GMAC, which mortgage was dated October 28, 2005 and recorded in Volume 2005 at Page 261 of the Cheshire Land Records (the "GMAC Mortgage").

5. At a refinance of the Property on or about May 13, 2006, the GMAC Mortgage was paid in full, by payment of \$560,343.02. A true and complete copy of the May 13, 2006 Settlement Statement is attached hereto as **Exhibit B**.

6. Despite the May 13, 2006 settlement, and payment in full of the GMAC Mortgage as a result of that proceeding, the GMAC Mortgage was never released from the land records, or otherwise recorded as being discharged.

7. Petitioners' counsel has discussed these facts with GMAC's counsel, who has advised there is no individual from GMAC who may execute a release of the GMAC Mortgage so that the discharge of the GMAC Mortgage may be properly recorded. Accordingly, Petitioners' only avenue of redress is to commence an action for quiet title against GMAC in Connecticut. The sole purpose of such an action would be to obtain a judgment releasing the GMAC Mortgage from the land records, so that the GMAC Mortgage may be recorded as discharged as a result of the May 13, 2006 settlement.

8. Pursuant to Local Bankruptcy Rule 4001-1, by way of the instant motion, Petitioners seek relief from the automatic bankruptcy stay so as to commence a quiet title action against GMAC in Connecticut, for the sole purpose of obtaining a judgment releasing the GMAC Mortgage from the land records.

9. No request for this or similar relief has previously been sought by Petitioners.

Dated: Princeton, New Jersey
September 22, 2017

SEIGER GFELLER LAURIE LLP



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CERTIFICATE OF SERVICE

I hereby certify that on September 18, 2017, copies of the foregoing Notice of Motion for Order for Relief from Automatic Bankruptcy Stay, Affidavit of Mark D. Shifton, Esq. in Support of Motion for Order for Relief from Automatic Bankruptcy Stay, and Proposed Order for Relief was filed electronically and served by mail upon all unrepresented parties and/or anyone unable to accept the electronic filing. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic

filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF System.

Dated: Princeton, New Jersey
September 18, 2017

SEIGER GFELLER LAURIE LLP



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ORDER FOR RELIEF

Upon consideration of the Motion filed on September 22, 2017 by Petitioners Jian Wang and Yung Fen, against the above-named debtor, seeking an Order for Relief from Automatic Bankruptcy Stay, relief from the stay pursuant to 11 U.S.C. § 362 is hereby granted.

Dated:

**Hon. Martin Glenn
United States Bankruptcy Judge**